

SETTLEMENT AGREEMENT BETWEEN
MISSOURI REAL ESTATE COMMISSION HORIZON PROPERTY MANAGEMENT LLC
AND VALERIE A. KRUSE

Come now Horizon Property Management, LLC ("Horizon") and Valerie A. Kruse ("Kruse"), collectively "Licensees," and the Missouri Real Estate Commission ("Commission") and enter into this Settlement Agreement for the purpose of resolving the question of whether Horizon's license as a real estate association and Kruse's licenses as a real estate broker and real estate broker associate will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensees' licenses, and, additionally, the right to a disciplinary hearing before the Commission under § 621.110, RSMo.

Licensees acknowledge that Licensees understand the various rights and privileges afforded Licensees by law, including the right to a hearing of the charges against Licensees; the right to appear and be represented by legal counsel; the right to have all charges against Licensees proven upon the record by a preponderance of the evidence; the right to cross-examine any witnesses appearing at the hearing against Licensees; the right to present evidence on Licensees' own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against Licensees and, subsequently, the right to a disciplinary hearing before the Commission at which time Licensees may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against Licensees' licenses. Being aware of these rights provided them by operation of law, Licensees knowingly and voluntarily waive each and every one of these rights and freely enter into this Settlement Agreement and agree to abide by the terms of this document, as they pertain to Licensees.

Licensees acknowledge that Licensees have received a copy of the documents relied upon by the Commission in determining there was cause to discipline Licensees' licenses, along with citations to law and/or regulations the Commission believes were violated.

For the purpose of settling this dispute, Licensees stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the Commission that Licensee Horizon's real estate

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

association license, numbered 2018028974 and Kruse's broker associate license, numbered 2013032272, and Kruse's broker license, numbered 2004032729, are subject to disciplinary action by the Commission in accordance with the provisions of Chapter 621 and §§ 339.010-339.205 and 339.710-339.855, RSMo.

Joint Stipulation of Facts and Conclusions of Law

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo, for the purpose of licensing all persons engaged in the practice as a real estate broker or salesperson in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of Sections 339.010-339.205 and 339.710-339.855, RSMo.

2. Licensee, Horizon, holds a real estate association license from the Commission, license number 2018028974. The Commission issued Horizon's license on August 3, 2018. Horizon's license expires June 30, 2020. Horizon's license was current and active at all times relevant herein. Licensee Valerie A. Kruse is the designated broker for Horizon.

3. Licensee, Valerie A. Kruse, holds an active real estate broker associate license from the Commission, license number 2013032272. The Commission issued Kruse's broker associate license on August 27, 2013. Kruse's license, number 2013032272, expires June 30, 2020. Kruse's license, number 2013032272, was not current and active at relevant times, as described below. Kruse also holds an active real estate broker license from the Commission, license number 2004032729. The Commission issued Kruse's broker license on September 14, 2004. Kruse's license, number 2004032729, expires June 30, 2020. Kruse's license, number 2004032729, was not current and active at all times, as described below.

4. The Commission received information that Licensee Kruse, broker associate of Licensee Horizon, was conducting licensed property management while her license was suspended pursuant to section 324.010, RSMo, (HB 600). Commission records revealed that Kruse's licenses were suspended on April 26, 2017 pursuant to section 324.010, RSMo, for failure to pay or file state income taxes. The Commission received closing forms from Kruse on July 3, 2017, related to her broker license and Horizon's association license. Kruse's licenses were reinstated August 3, 2018.

5. Kruse provided a written statement to the Commission confirming she continued to conduct property management activity while her license was suspended pursuant to HB600. The Horizon office manager provided documentation that from April 26, 2017 through August 3, 2018, Kruse and Horizon received

commissions totaling \$28,260.49. The office manager also provided copies of the management agreements for two apartment complexes and several duplexes that were active during the period of suspension.

6. Licensees' conduct, as described in paragraphs 4 and 5 above, allowing the provision of real estate services without a valid license, constitutes cause to discipline Licensees' licenses.

7. Section 339.020, RSMo, states:

It shall be unlawful for any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic, to act as a real estate broker, real estate broker-salesperson, or real estate salesperson or to advertise or assume to act as such without a license first procured from the commission.

8. Section 324.010, RSMo, states:

All governmental entities issuing professional licenses, certificates, registrations, or permits pursuant to sections 209.319 to 209.339, sections 214.270 to 214.516, sections 256.010 to 256.453, section 375.014, sections 436.005 to 436.071, chapter 317 and chapters 324 to 346 shall provide the director of revenue with the name and Social Security number of each applicant for licensure with or licensee of such entities within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee's license. If such licensee is delinquent on any state taxes or has failed to file state income tax returns in the last three years, the director shall then send notice to each such entity and licensee. In the case of such delinquency or failure to file, the licensee's license shall be suspended within ninety days after notice of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy. The director of revenue shall, within ten business days of notification to the governmental entity issuing the professional license that the delinquency has been remedied or arrangements have been made to remedy such delinquency, send written notification to the licensee that the delinquency has been remedied. Tax liability paid in protest or reasonably founded disputes with such liability shall be considered paid for the purposes of this section.

9. Cause exists for the Commission to take disciplinary action against Licensees' licenses under § 339.100.2(15), (19) and (23), RSMo, which states in pertinent part:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

...

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860*, or any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860*;

...

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

...

(23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and section 339.710 to 339.860* who is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860*[.]

Joint Agreed Disciplinary Order

10. Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Commission in this matter under the authority of §§ 536.060, 621.045.4 and 621.110, RSMo.

11. The terms of discipline shall include that **Kruse shall pay a civil penalty in the amount of \$500.00 pursuant to § 339.100.3, RSMo.** The civil penalty shall be made by certified check payable to the "Missouri Real Estate Commission" and mailed to the Missouri Real Estate Commission, PO Box 1339, Jefferson City, MO 65102-1339. Said check must be postmarked or hand delivered within 60 days of the effective date of this Settlement Agreement. Funds received pursuant to this Order shall be handled in accordance with Section 7 of Article IX of the Missouri Constitution and Section 339.205.8, RSMo. Respondents' failure to pay the full amount of the \$500.00 civil penalty within sixty days of the effective date of this Order shall constitute a violation of this Order.

The terms of discipline shall also include that **Licensees' licenses shall be placed on probation for a period of two (2) years.** Licensees' licenses are hereby placed on two (2) years' probation. During the period of **probation** on Licensees' licenses, Licensees shall be entitled to practice as a real estate association, real estate broker and real estate broker associate, respectively, provided Licensees adhere to all the terms stated herein. The period of probation shall constitute the "disciplinary period."

12. **Terms and conditions of the disciplinary period.** Terms and conditions of the disciplinary period are as follows:

- a. Licensees shall keep the MREC apprised at all times in writing of Licensees' current mailing address, telephone number, and e-mail address (if any) at each place of residence and business. Licensees shall notify the MREC in writing within ten days of any change in this information
- b. Licensees shall timely renew Licensees' licenses, timely pay all fees required for license renewal, and comply with all other requirements necessary to maintain Licensees' licenses in a current and active state. During the disciplinary period, Licensees shall not place Licensees' licenses on inactive status as would otherwise be allowed under 20 CSR 2250-4.050. Alternatively, without violating the terms and conditions of this Settlement Agreement, Licensees may surrender Licensees' real estate licenses by submitting Surrender of Licensure Rights forms to the MREC along with the original licenses and any duplicate copies issued to Licensees. If Licensees apply for real estate licenses after surrender, Licensees shall be required to requalify as if original applicants. Licensee Kruse would have to apply as an original applicant for a salesperson license. The MREC will not be precluded from basing its decision, wholly or partially, on the findings of facts, conclusions of law, and discipline set forth in this Settlement Agreement.
- c. Licensees shall meet in person with the MREC or its representative at any such time and place as required by the MREC or its designee upon notification from the MREC or its designee. Said meetings will be at the MREC's discretion and may occur periodically during the probation period.
- d. Licensees shall immediately submit documents showing compliance with the requirements of this Order to the MREC when requested by the MREC or its designee.
- e. During the probationary period, Licensees shall accept and comply with unannounced visits from the MREC's representatives to monitor compliance with the terms and conditions of this Order.
- f. Licensees shall comply with all relevant provisions of Chapter 339, RSMo, as amended; all rules and regulations of the MREC; and all local, state, and federal laws. "State" as used herein refers to the State of Missouri and all other states and territories of the United States.

in that it survives in perpetuity even in the event that any court of law deems this Settlement Agreement or any portion thereof to be void or unenforceable.

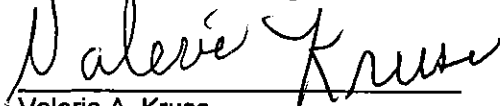
19. If no contested case has been filed against Licensees, Licensees have the right, either at the time the Settlement Agreement is signed by all parties or within fifteen days thereafter, to submit the Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the Settlement Agreement constitute grounds for denying or disciplining the licenses of Licensees. If Licensees desire the Administrative Hearing Commission to review this Agreement, Licensees may submit this request to: **Administrative Hearing Commission, United States Post Office Building, P.O. Box 1557, 131 West High St., Jefferson City, MO 65102.**

20. If Licensees have requested review, Licensees and Commission jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensees' licenses and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensees' licenses. Effective the date the Administrative Hearing Commission determines that the Agreement sets forth cause for disciplining Licensees' licenses, the agreed upon discipline set forth herein shall go into effect. If the Administrative Hearing Commission issues an order stating that the Settlement Agreement does not set forth cause for discipline, then the Commission may proceed to seek discipline against Licensees as allowed by law. If Licensees do not submit the Agreement to the Administrative Hearing Commission for determination, the Agreement shall become effective fifteen (15) days following the signature of the Commission's Executive Director.

LICENSEES



Horizon Property Management LLC
Valerie A. Kruse, Designated Broker



Valerie A. Kruse

Date 8/13/19

COMMISSION



Terry W. Moore
Executive Director
Missouri Real Estate Commission

Date AUGUST 27, 2019